

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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BOARD OF MANAGERS OF THE  
633 THIRD AVENUE CONDOMINIUM,

Case No. 1:23-cv-10371

Plaintiff,

-against-

THE PERMANENT MISSION OF  
AFGHANISTAN TO THE UNITED NATIONS,  
NEW YORK CITY DEPARTMENT OF  
FINANCE, and JOHN DOES 1-100, the latter  
names being fictitious, but intending to designate  
tenants, persons in possession, or persons having an  
interest in portions of the premises described in the  
Verified Complaint,

Defendants.

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**ORDER TO SHOW CAUSE FOR DEFAULT JUDGMENT AGAINST THE  
PERMANENT MISSION OF AFGHANISTAN TO THE UNITED NATIONS,  
VOLUNTARY DISMISSAL OF DEFENDANTS NEW YORK CITY  
DEPARTMENT OF FINANCE AND JOHN DOES 1-100 WITHOUT  
PREJUDICE, AND TO AMEND THE CAPTION**

Upon the Declaration of Lisa M. Capone, dated November 19, 2024, and the exhibits annexed thereto, the Declaration of Richard Recny, dated November 19, 2024, and the exhibits annexed thereto, and Plaintiff's memorandum of law, all submitted in support of Plaintiff The Board of Managers of the 633 Avenue Condominium's ("Plaintiff") motion for an Order: i) entering default judgment against Defendant The Permanent Mission of Afghanistan to the United Nations (the "Mission") pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, Rule 55.2 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, and Attachment A to this Court's Individual Rules and Practices, for the relief demanded in

the Complaint herein; ii) voluntarily dismissing the action as against Defendants New York City Department of Finance (the “Department of Finance”) and John Does 1-100 (the “Doe Defendants”) without prejudice; iii) amending the caption to remove the Department of Finance and the Doe Defendants as defendants in this action; and iv) granting Plaintiff such other and further relief as the Court may deem just, proper and equitable; and upon all pleadings and proceedings had herein, and sufficient cause appearing therefrom,

**IT IS HEREBY ORDERED** that Mission, or its respective attorneys, show cause before the Honorable Andrew L. Carter, Jr., United States District Judge, at the United States District Court for the Southern District of New York, Courtroom 1306 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, on the \_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_\_, or as soon thereafter as counsel may be heard, why an Order should not be entered:

- i) entering a default judgment against the Mission as follows:
  - a. for the relief requested in Count One and Count Two of Plaintiff’s Complaint, including a money judgment for all unpaid monthly common charges, late charges, assessments, attorneys’ fees, and costs and disbursements in connection with the action through the date of entry of judgment, plus interest;
  - b. on Count Three in the Complaint for foreclosure of a lien by Plaintiff, granting Plaintiff:
    - i. judgment of foreclosure and sale providing that:

1. all Defendants and each of them, and all persons claiming under them or any of them, subject to the priorities contained in Section 339-z of the Real Property Law of the State of New York, and all parties acquiring any lien or interest in the 633 Third Avenue, Unit 27A, New York, New York 10017 and designated on the tax roll(s) of the County of New York as Block 1314, Lot 1426 (the “Property”), subsequent to the commencement of this action and the filing of a notice of pendency thereof and subsequent to the filing of the Declaration of the Condominium, be barred and foreclosed of and from all estate, right, title, interest, claim, lien, and equity of redemption of, in and to the Property and each and every part or parcel thereof;
2. the Property be sold in one parcel, according to law in “as is” physical order and condition, subject to the items set forth in Plaintiff’s moving papers; and
3. Plaintiff be paid from the proceeds of such sale the amount due it for common charges, assessments, special assessments, other charges, and late fees as alleged herein, together with interest to the time of such payment and together with sums expended by Plaintiff during the pendency of this action and the expenses of such sale, plus

reasonable attorneys' fees, together with the costs, allowance and disbursements of this Action, and together with any sums incurred by Plaintiff pursuant to any term or provision of the Declaration and/or the By-Laws set forth in the Complaint, or to protect Plaintiff's lien, together with interest upon said sums from dates of the respective payments and advances thereof, so far as the amount of such monies properly applicable thereto will pay the same; and

- ii. reasonable use and occupancy of the Property, from the date of commencement of this action;
- iii. any deficiency as the Court may determine to be just and equitable of the debt remaining unsatisfied after a sale of the Property and the application of the proceeds pursuant to the directions contained in such judgment; and

iv. Writ of Assistance from the Court authorizing the Sheriff/Marshall of the County of New York to remove all occupants of the Property from possession thereof;

ii) voluntarily dismissing the Department of Finance and the Doe Defendants without prejudice;

iii) amending the caption to remove the Department of Finance and the Doe Defendants as defendants in this action; and

iv) granting Plaintiff such other and further relief as the Court may deem just, proper and equitable.

**IT IS FURTHER ORDERED** that, sufficient cause having been shown, that service of copies of this Order to Show Cause and Plaintiff's supporting papers, by certified mail, return receipt requested, shall be good and sufficient if served upon the Mission at the Property, on or before \_\_\_\_\_, 2024; and

**IT IS FURTHER ORDERED** that the Mission is advised that failure to respond to the Order to Show Cause may be grounds for the granting of a default judgment against it, in which event Defendant will have no trial; and

**IT IS FURTHER ORDERED** that Plaintiff shall file proof of service within ten (10) days of service; and

**IT IS FURTHER ORDERED** that any opposition papers shall be filed no later than \_\_\_\_\_, 2024, at \_\_\_\_\_.

Dated: New York, New York  
November \_\_, 2024

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Hon. Andrew L. Carter, Jr., U.S.D.J.